

DIVISION I

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
OLLY NEAL, JUDGE

CACR05-1244

May 17, 2006

JOE LEE JACKSON, III
APPELLANT

v.

STATE OF ARKANSAS
APPELLEE

AN APPEAL FROM THE PULASKI
COUNTY CIRCUIT COURT
[CR05 219]

HONORABLE JOHN LANGSTON,
JUDGE

AFFIRMED

Following a bench trial, appellant Joe Lee Jackson, III, was found guilty of forgery in the first degree. He was sentenced to three years' probation and a \$150 fine. On appeal, he asserts that the trial court erred when it denied his motion for directed verdict. We affirm.

On December 7, 2004, several law enforcement officers were present at the Shell Super Stop (Super Stop) on Geyer Springs Road in Little Rock, when appellant entered the store to purchase ten dollars' worth of gas. Appellant attempted to make his purchase with a one-hundred dollar bill. Suspecting that the bill was counterfeit, the clerk called one of the officers over. When questioned by the officer, appellant admitted that the bill was his. He informed the officer that he obtained the bill when he cashed his pay check at Wal-Mart. The officer placed appellant under arrest and transported him downtown to the Little Rock Police Department for further investigation. Appellant was subsequently charged with passing counterfeit currency.

At appellant's bench trial, Officer Roger Snook, Jr., of the Little Rock Police

Department, testified that, on December 7, 2004, he came in contact with an individual later determined to be appellant. He said that he and two other law enforcement officers were at the Super Stop when appellant attempted to prepay for some gas using a one-hundred dollar bill. He said that the cashier called him over because she suspected the bill was counterfeit. Officer Snook described appellant as being cooperative. During his testimony, Officer Snook identified State's Exhibit One as the suspected bill. He said that the bill's serial number was "CB02109772F." He stated that he was aware of a prior incident involving a counterfeit bill bearing the same serial number.

Mark White of the United States Secret Service testified that in the course of his training he became familiar with the detection and investigation of counterfeit currency. He considered State's Exhibit One to be counterfeit. He described the bill as being what they call a "p-note or printer note," made by printing the bill on either a laptop or personal computer. He further explained that:

On this bill, we are missing a security strip in the bill itself that's actually embedded in the paper that in this case would say "USA 100" on that strip itself. You would notice in the number "100" in the lower left hand portion of the bill, you would see micro printing that would say "USA 100" all throughout the interior of that number, as well as the lower right-hand number "100" is printed on genuine currency with color shifting ink which, when you hold it directly in front of you looking at the bill would show a fluorescent green color, and when you cant it at a 45 degree angle, it would change to a dull greenish gray color.

Chad Herndon, a financial-crimes detective for the Little Rock Police Department, testified that he had reviewed State's Exhibit One. He said that he was advised that, on April 4, 2004, an incident occurred involving a bill with a serial number that was similar to the serial number on State's Exhibit One. He said that he had no actual information about the incident.

Appellant testified that he goes to the Super Stop quite often. He said that he thought the clerk was joking when she said she was going to keep the bill. Appellant testified that

he obtained the bill when he cashed his check at Wal-Mart. He said that he did not check to see if any of the bills he received were counterfeit. He said that he did not know what counterfeit money looked like and that he would be unable to identify counterfeit money.

On appeal, appellant argues that the trial court erred when it denied his motion for directed verdict. Because this was a bench trial, appellant's motion for directed verdict was in reality a motion to dismiss. *See Stewart v. State*, ___ Ark. ___, ___ S.W.3d ___ (May 19, 2005). Appellant's argument is not preserved for appellate review. A review of the abstract and record reveals that at the close of the State's case appellant made his motion to dismiss; however, at the close of all the evidence appellant failed to renew his motion. Rule 33.1 of the Arkansas Rules of Criminal Procedure provides in pertinent part:

(b) In a nonjury trial, if a motion for dismissal is to be made, it shall be made at the close of all of the evidence. The motion for dismissal shall state the specific grounds therefor. If the defendant moved for dismissal at the conclusion of the prosecution's evidence, then the motion must be renewed at the close of all of the evidence.

(c) The failure of a defendant to challenge the sufficiency of the evidence at the times and in the manner required in subsections (a) and (b) above will constitute a waiver of any question pertaining to the sufficiency of the evidence to support the verdict or judgment. A motion for directed verdict or for dismissal based on insufficiency of the evidence must specify the respect in which the evidence is deficient. A motion merely stating that the evidence is insufficient does not preserve for appeal issues relating to a specific deficiency such as insufficient proof on the elements of the offense. *A renewal at the close of all of the evidence of a previous motion for directed verdict or for dismissal preserves the issue of insufficient evidence for appeal.* If for any reason a motion or a renewed motion at the close of all of the evidence for directed verdict or for dismissal is not ruled upon, it is deemed denied for purposes of obtaining appellate review on the question of the sufficiency of the evidence.

(Emphasis added.) If a defendant fails to renew a motion for dismissal at the close of all the evidence, the sufficiency challenge is deemed waived on appeal. *Jones v. State*, 347 Ark. 409, 64 S.W.3d 728 (2002). Thus, appellant's failure to renew his motion to dismiss at the close of all the evidence precludes this court from reviewing appellant's argument on appeal.

Affirmed.

GLADWIN and GRIFFEN, JJ., agree.